



September 7, 2019

Senator Atkins
State Capitol, Room 205
Sacramento, CA 95814

Dear Senator Atkins,

You are a leader in wetlands conservation, and are dedicated to restoring California's lost wetlands, tidal marshes, and estuaries so important to waterfowl, endangered fish species, and thousands of other species of wildlife. Ducks Unlimited is the world's leader in wetlands conservation, is science based in our conservation work, and has provided substantive efforts in California's wetland restoration efforts, sea level rise mitigation projects, carbon sequestration projects, and riparian habitat projects all to be better stewards of our environment and for our wildlife. We have serious concerns with SB 1 and the harm it may have on our collaborative efforts going forward to benefit wildlife.

We oppose Section 3(c) of the bill as drafted, as it would prevent the state from incorporating the latest science and other information in permitting decisions. This provision would freeze in place the state and federal water project incidental take permits and biological opinions that were developed over 10 years ago, regardless of whether more recent science or related policies such as outflow requirements suggest modification to the permits (proposed new section 2076.7(c) of the Fish and Game Code). Without additional flexibility, this provision would severely restrict voluntary agreement whereby water users would support additional flows and habitat improvements for salmon and other imperiled fish in return for some level of water supply reliability.

We oppose Section 2 of the bill that would require Bureau of Reclamation to comply with the Endangered Species Act. Given significant legal uncertainty whether the state can modify the application of federal law, this provision would generate years of litigation and uncertainty over which environmental standards to apply to the federal Central Valley Projects. During such fundamental uncertainty, it will be impossible to develop any voluntary agreement settlements on outflow standards.

Finally, we question the addition of "dredged or fill materials" to the definition of waste in Section 6(d)(1). Ducks Unlimited utilizes dredge material, in compliance with state and federal laws, when restoring wetlands within California and in especially in the Bay Area for sea level rise mitigation and marsh restorations. How this language is interpreted could lead to the shuttering of multiple environmentally beneficial wetland restoration projects currently and stop future sea level rise wetland mitigation projects all together.

We believe that SB 1, with amendments to address these three concerns, would achieve the goals of protecting California's environment without jeopardizing voluntary agreements, current beneficial work projects, and future sea level rise mitigation work being done. Thank you for your continued leadership on the environment, on wetlands restoration, and on considering our request.

Sincerely

Gary Link
Director of Public Policy
Ducks Unlimited